

ASSEMBLY BILL

No. 789

Introduced by Assembly Member Mountjoy

February 20, 2003

An act to amend Section 22661 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 789, as introduced, Mountjoy. Vehicles: removal: local ordinance.

(1) Existing law authorizes a city, county, or city and county to adopt an ordinance establishing procedures for the abatement and removal, as public nuisances, of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof from private or public property. An ordinance establishing procedures for the removal of abandoned vehicles is required to contain certain provisions, including a provision exempting vehicles under certain circumstances.

This bill would require the ordinance to exempt a vehicle that has a certification of nonoperation on file with the Department of Motor Vehicles, as specified, is stored or parked in a lawful manner on private property, and is not readily visible from the street. Because this requirement would impose additional duties upon local governmental entities, the bill would establish a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide

and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22661 of the Vehicle Code is amended
2 to read:
3 22661. Any ordinance establishing procedures for the
4 removal of abandoned vehicles shall contain all of the following
5 provisions:
6 (a) ~~The~~ A requirement that notice be given to the Department
7 of Motor Vehicles within five days after the date of removal,
8 identifying the vehicle or part thereof and any evidence of
9 registration available, including, but not limited to, the registration
10 card, certificates of ownership, or license plates.
11 (b) ~~Making~~ (1) A provision making the ordinance inapplicable
12 to ~~(1)-a~~ all of the following:
13 (A) A vehicle or part thereof that is completely enclosed within
14 a building in a lawful manner where it is not visible from the street
15 or other public or private property ~~or (2)-a~~.
16 (B) A vehicle that meets all of the following requirements:
17 (i) Has on file with the Department of Motor Vehicles a
18 certification of nonoperation pursuant to Section 4604.
19 (ii) Is stored or parked in a lawful manner on private property.
20 (iii) Is not readily visible from the street.
21 (C) A vehicle or part thereof that is stored or parked in a lawful
22 manner on private property in connection with the business of a
23 licensed dismantler, licensed vehicle dealer, or a junkyard. ~~This~~
24 ~~exception shall not, however,~~
25 (2) This subdivision does not authorize the maintenance of a
26 public or private nuisance as defined under provisions of law other
27 than this chapter.
28 (c) ~~The~~ (1) A requirement that not less than a 10-day notice of
29 intention to abate and remove the vehicle or part thereof as a public

nuisance be issued, unless the property owner and the owner of the vehicle have signed releases authorizing removal and waiving further interest in the vehicle or part thereof. However, the notice of intention is not required for removal of a vehicle or part thereof that is inoperable due to the absence of a motor, transmission, or wheels and incapable of being towed, is valued at less than two hundred dollars (\$200) by a person specified in Section 22855, and is determined by the local agency to be a public nuisance presenting an immediate threat to public health or safety, provided that the property owner has signed a release authorizing removal and waiving further interest in the vehicle or part thereof. Prior to final disposition under Section 22662 of ~~such~~ a low-valued vehicle or part for which evidence of registration was recovered pursuant to subdivision (a), the local agency shall provide notice to the registered and legal owners of intent to dispose of the vehicle or part, and if the vehicle or part is not claimed and removed within 12 days after the notice is mailed, from a location specified in Section 22662, final disposition may proceed. No local agency or contractor thereof shall be liable for damage caused to a vehicle or part thereof by removal pursuant to this section.

~~This~~

(2) *This subdivision applies only to inoperable vehicles located upon a parcel that ~~is (1) zoned~~ meets either of the following conditions:*

(A) *Is zoned for agricultural use ~~or (2)~~.*

(B) *Is not improved with a residential structure containing one or more dwelling units.*

(d) The 10-day notice of intention to abate and remove a vehicle or part thereof, when required by this section, shall contain a statement of the hearing rights of the owner of the property on which the vehicle is located and of the owner of the vehicle. The statement shall include notice to the property owner that he or she may appear in person at a hearing or may submit a sworn written statement denying responsibility for the presence of the vehicle on the land, with his or her reasons for ~~such~~ the denial, in lieu of appearing. The notice of intention to abate shall be mailed, by registered or certified mail, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owners of record unless the vehicle is in such condition that identification numbers are not available to determine ownership.

1 (e) ~~The~~ A requirement that a public hearing be held before the
2 governing body of the city, county, or city and county, or any other
3 board, commissioner, or official of the city, county, or city and
4 county as designated by the governing body, upon request for ~~such~~
5 ~~a~~ *that* hearing by the owner of the vehicle or the owner of the land
6 on which the vehicle is located. This request shall be made to the
7 appropriate public body, agency, or officer within 10 days after the
8 mailing of notice of intention to abate and remove the vehicle or
9 at the time of signing a release pursuant to subdivision (c). If the
10 owner of the land on which the vehicle is located submits a sworn
11 written statement denying responsibility for the presence of the
12 vehicle on his or her land within that time period, this statement
13 shall be construed as a request for hearing that does not require the
14 presence of the owner submitting the request. If the request is not
15 received within that period, the appropriate public body, agency,
16 or officer shall have the authority to remove the vehicle.

17 (f) ~~The~~ A requirement that after a vehicle has been removed, it
18 ~~shall~~ *may* not be reconstructed or made operable, unless it is a
19 vehicle that qualifies for either horseless carriage license plates or
20 historical vehicle license plates, pursuant to Section 5004, in
21 which case the vehicle may be reconstructed or made operable.

22 (g) A provision authorizing the owner of the land on which the
23 vehicle is located to appear in person at the hearing or present a
24 sworn written statement denying responsibility for the presence of
25 the vehicle on the land, with his or her reasons for the denial. If it
26 is determined at the hearing that the vehicle was placed on the land
27 without the consent of the landowner and that he or she has not
28 subsequently acquiesced to its presence, then the local authority
29 ~~shall~~ *may* not assess costs of administration or removal of the
30 vehicle against the property upon which the vehicle is located or
31 otherwise attempt to collect those costs from the owner.

32 SEC. 2. Notwithstanding Section 17610 of the Government
33 Code, if the Commission on State Mandates determines that this
34 act contains costs mandated by the state, reimbursement to local
35 agencies and school districts for those costs shall be made pursuant
36 to Part 7 (commencing with Section 17500) of Division 4 of Title
37 2 of the Government Code. If the statewide cost of the claim for
38 reimbursement does not exceed one million dollars (\$1,000,000),



- 1 reimbursement shall be made from the State Mandates Claims
- 2 Fund.

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